

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

In re JDS UNIPHASE CORPORATION
SECURITIES LITIGATION

No. C 02-1486 CW

AMENDED ORDER
GRANTING IN PART
DEFENDANTS'
MOTION TO
MAINTAIN
CONFIDENTIALITY
OF DOCUMENTS AT
TRIAL AND MOTION
TO SEAL

[DOCKET NO. 1649]

Defendants JDS Uniphase Corporation (JDSU), Jozef Straus, Anthony R. Muller, Charles Abbe and Kevin Kalkhoven have filed an administrative motion to maintain the confidentiality of certain documents at trial and to file those documents under seal. Lead Plaintiff Connecticut Retirement Plans and Trust Funds opposes the motion, arguing that there are no sufficiently compelling reasons to seal the documents that outweighs the public right of access to

1 them. See Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122,
2 1135 (9th Cir. 2003). Having considered the parties' positions and
3 good cause appearing therefor, the Court hereby orders that:

4 (1) Defendants' motion is granted in part with respect to the
5 financial reports documenting non-parties' stock options received
6 and exercised, stock sold and proceeds from those sales. Although
7 third parties have an interest in keeping their financial
8 information and home addresses private, the records "can be
9 redacted easily to protect third-party privacy interests while
10 leaving other meaningful information." Id. at 1137. Plaintiffs
11 shall redact names, home addresses and any other identifying
12 information prior to publishing these records at trial. **However,**
13 **if Plaintiffs intend to introduce testimony from a non-party**
14 **individual linking that individual's stock sale to knowledge of**
15 **material, non-public information, and there is evidence to link**
16 **that knowledge to any Individual Defendant, Plaintiffs may disclose**
17 **the name of the non-party individual.**

18 (2) Defendants' motion is granted in part with respect to the
19 email containing Thomas Pitre's salary. Pitre's privacy interests
20 can be protected by redacting the amount of his salary, the amount
21 offered to him by the competitor and the salary increase offered by
22 JDSU. Plaintiffs may discuss the percentage of the salary
23 increases offered, but may not discuss the actual amount Pitre
24 earned or could have earned.

25 (3) Defendants' motion is granted in part with respect to the
26 board minutes and discussion memorandum. Although their compelled
27 production of information deemed to be attorney work product does
28

1 not constitute a waiver of that right, see Transam Computer Co.,
2 Inc. v. Int'l Bus. Machs. Corp., 573 F.2d 646, 651 (9th Cir. 1978),
3 Defendants assert that only two paragraphs were found to be
4 protected by Judge LaPorte. Therefore, only those paragraphs can
5 be kept out of the public record. However, the Court notes that
6 Defendants' counsel have referred to at least some of the allegedly
7 protected materials in open court. See, e.g., Transcript of
8 Pretrial Conference at 95 (referred to allegedly protected material
9 at JDSU 021486). Therefore, Plaintiffs may introduce these
10 materials, except the protected paragraph at JDSU 021483, to the
11 extent that the evidence is admissible.

12 (4) Defendants' motion to seal is granted in part.
13 Defendants shall redact the documents they seek to file under seal
14 in a manner consistent with this order and shall file those
15 documents in the public record. The unredacted versions shall be
16 filed under seal.

17 IT IS SO ORDERED.

18
19 Dated: 10/24/07



20 CLAUDIA WILKEN
21 United States District Judge
22
23
24
25
26
27
28